REMARKS

Applicant appreciates the Examiner's thorough consideration provided the present application. Applicant would appreciate the courtesy of a brief telephonic interview with the Examiner upon receipt of this response to discuss shortcomings with the Examiner's interpretation of the prior art of record. As discussed during a recent telephone conversation with the Examiner, Applicant's representative will contact the Examiner concurrently herewith to schedule the brief telephonic interview.

Claims 1, 2, 4-6, 8, 9, 11-16, 18, 20 and 22-25 are currently pending in the instant application. Claims 1 and 16 have been amended. Claims 1 and 16 are independent. Reconsideration of the pr application is earnestly solicited.

Reasons for Entry of Amendment

As discussed in greater detail hereinafter, Applicant respectfully submits that the rejections under 35 U.S.C. § 102 are improper and should be withdrawn. Accordingly, the finality of the Final Office Action mailed on May 6, 2002 should be withdrawn.

If the Examiner persists in maintaining his rejections, Applicant submits that this Amendment was not presented at an earlier date in view of the fact that Applicants are responding to new grounds of rejection in a Final Office Action. In accordance with the requirements of 37 CFR 1.116, Applicant

respectfully requests entry and consideration of the foregoing amendments as they remove issues for appeal (claims are cancelled) and place the current application in a condition for allowance. Applicant submits that the foregoing amendments do not raise new issues for the Examiner.

Double Patenting

The Examiner had indicated that a nonstatutory double patenting rejection based upon the claims of U.S. Patent No. 5,899,956 has been maintained. Applicants have resubmitted the timely filed terminal disclaimer of January 3, 2001, along with the appropriate fee, on June 11, 2002. Accordingly, Applicant submits that this rejection has been obviated and/or rendered moot. Further, Applicant respectfully submits that the claimed invention of the present application is patentably distinct from the invention of U.S. Patent No. 5,899,956.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-2, 4-6, 8-9, 11-16, 18, 20 and 22-25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Masaki (JP 9-226635).

Without conceding the propriety of the Examiner's rejection, but merely to timely advance the prosecution of the present application, Applicant has amended independent claims 1 and 16. Accordingly, Applicant respectfully submits that neither Masaki or U.S. Patent No. 5,899,956 teach or suggest

each and every limitation of even the independent claims. Accordingly, this rejection should be withdrawn.

With respect to the claimed invention of claim 1, the prior art of record fails to teach or suggest the combination of elements of the claimed invention, including the limitations of means for manually triggering a preservation of captured scenes and means for capturing, buffering and preserving visual scenes. Although the Examiner asserts that the Masaki reference teaches these features, the following discussion clearly shows that the Masaki reference fails to teach or suggest these features as claimed.

With respect to claim 16, the prior art of record fails to teach or suggest the combination of elements of the claimed invention, including the limitations of "manually triggering a permanent preservation of a plurality of frames of said buffered images; wherein said permanent preservation of a plurality of frames of visual scenes is achieved by prohibiting older said images from being erased and replaced by newer images such that said plurality of frames stored are composed of a number of images captured so many seconds before, during and after said triggering;" and "preserving said buffered images when said triggering occurs, wherein said preserving of said buffered scenes is achieved by prohibiting older said buffered scenes from being erased and replaced by newly captured scenes after a preprogrammed elapsed time period such that said plurality of said visual scenes are comprised of a number of said captured scenes captured a number of seconds before and after said manual triggering."

Manual Trigger

The prior art of record fails to teach or suggest the limitation of a manual trigger. Although the Examiner has interpreted the on/off switch (element 2d) of the Masaki patent as a manual trigger, Applicant respectfully submits that this feature as shown and described by Masaki is simply an off/switch for controlling power to the unit. In the claimed invention, the manual trigger controls a preservation of captured scenes and initiates the preservation of buffered scenes/data.

In the Masaki reference, the device is simply turned on and off by the alleged "manual trigger." This is further described in paragraphs 0028, 0029, 0037, 0038 and 0044 of Masaki (the translation provided to the Examiner). The Masaki device cannot be interpreted to include a feature of recording visual and/or audio data before and after an accident occurs responsive to a manual trigger.

The following example demonstrates how the manual triggering of the claimed invention differs from the prior art. In an accident spanning 20 seconds in length from start to finish, the manual trigger may be activated 10 seconds into the accident. In this case, the claimed invention would capture and preserve buffered scenes both before and after the manual triggering, e.g. from 0-10 seconds and from 10 to 20 seconds in this example and assuming a preprogrammed period of time of 20 seconds or more. Applicant fails to appreciate how the on/off switch of Masaki can be interpreted as a manual

trigger that can be used in conjunction with the magneto-optical recording/storage medium of Masaki to accomplish this claimed feature.

Even if the on/off switch of Masaki were operated quickly, e.g., rapidly turned on and off by an operator, the scenes captured would not serve to preserve buffered scenes achieved by prohibiting older buffered scenes from being erased and replaced by newly captured scenes after *a preprogrammed elapsed time period* such that said plurality of said visual scenes are comprised of a number of said captured scenes *captured a number of seconds before and after said manual triggering. (emphasis added)* Accordingly, this rejection to claims 1 and 16 should be withdrawn.

The only triggering action or device discussed by Masaki is automatically, e.g., through an impact sensor. Masaki never describes or suggests a manual trigger for generating capturing or preservation of buffered scenes. Applicant is respectfully requested to contact the undersigned via telephone if the Examiner still believes that Masaki teaches or suggests the feature of a manual trigger as claimed after consideration of the foregoing amendments and remarks.

Hand-held device for recording incidents

With respect to claims 13 and 14, the Masaki reference does not teach or suggest these features. Instead, Figure 6 of Masaki merely shows the device secured to the roof of the automobile. The device is further operatively connected to a power supply within the vehicle, see paragraphs 0027, 0028,

0037 and 0038, including the feature of the manual on/off switch 2d. The claimed invention claims a housing unit that permits use of the device as a separate hand-held device. This feature is neither taught nor suggested by the Masaki reference. Applicant requests clarification as to where in the Masaki reference this feature is taught or suggested if the Examiner persists in maintaining this rejection.

CONCLUSION

All the stated grounds of rejection have been properly traversed and/or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently pending rejections and that they be withdrawn.

It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

Attached hereto is a marked-up version of the changes made to the application by this Amendment.

In the event there are any matters remaining in this application, the Examiner is invited to contact Matthew Shanley, Registration No. 47,074 at (703) 205-8000 in the Washington, D.C. area.

Attached hereto is a marked-up version of the changes made to the application by this Amendment.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By Matthew T. Scott #47,074
for F. Prince Butler
Reg. No.: 25,666

FPB/MTS/mmi

P. O. Box 747
Falls Church, VA 22040-0747
(703)205-8000

Attachment: Version with Markings to Show Changes Made

VERSIOON WITH MARKINGS TO HSOW CHANGES MADE

IN THE CLAIMS

The claims have been amended as follows:

1. (Four Times Amended) A digital incident recording apparatus comprising:

means for continuously capturing an actual visual scene within the vicinity of said apparatus wherein said means for capturing said visual scene is achieved by an image capturing unit[, said means for continuously capturing said actual visual scene being capable of simultaneously capturing said visual scene from front, rear and side views];

means for buffering up a plurality of captured visual scenes having a finite number of storage elements over-written repeatedly using a first-in-first-out mechanism such that a finite storage can be used to hold a plurality of said visual scenes continuously;

means for preserving buffered scenes long enough to be stored and viewed after an incident has occurred; and

means for manually triggering a preservation of captured scenes, wherein said means for manually triggering [can be] is a manual activation action, said manual activation action including taking a sequence of continuous images of said visual scene, wherein said preservation of said buffered scenes is achieved by prohibiting older said buffered scenes from being erased and replaced by new captured scenes after a preprogrammed elapsed time period such that said

plurality of said visual scenes are comprised of a number of said captured scenes captured a number of seconds before and after said manual activation action.

16. (Four Times Amended) A method for digitally recording incidents using a finite storage for capturing unanticipated events, said method comprising the steps of:

continuously capturing an actual visual scene in real-time and converting said actual visual scene into digital form;

continuously buffering a plurality of captured images from said capturing step using a first-in-first-out mechanism;

manually triggering a permanent preservation of a plurality of frames of said buffered images; wherein said permanent preservation of a plurality of frames of visual scenes is achieved by prohibiting older said images from being erased and replaced by newer images such that said plurality of frames stored are composed of a number of images captured so many seconds before, during and after said triggering;

[capturing rear and side view scenes;

buffering said rear and side view scenes using said first-in-first-out mechanism to form a plurality of buffered images;] and

preserving said buffered images when said manual triggering [steps] step occurs.